

Courtney Palko

From: Courtney Palko
Sent: Thursday, March 09, 2006 12:50 PM
To: 'Curtner, Gregory L.'; 'Kaur, Atleen'
Cc: Maxwell M. Blecher; 'Frederick Rohlfing'
Subject: ASI v. NCAA -- Proposed Stipulation re Bifurcation

Are you agreeable to stipulating to bifurcate the trial so that the parties can focus first on only the tort claims, and leave the antitrust claim for later discovery and trial if necessary. This idea was discussed at our settlement conference and endorsed by Judge Chang. Both sides have been informally proceeding along those lines and have agreed to limit discovery to the tort claims. We think that the depositions of Paul Feller (once we can track him down), Dennis Poppe, and Craig Thompson will complete our discovery for the tort claims. Will you please check Mr. Poppe's schedule so that we can arrange a mutually convenient date and location for his deposition? Will the NCAA be representing Mr. Thompson for purposes of his deposition or does he have independent counsel?

While there is overlap and synergy between the tort and antitrust claims, they are separable and prioritizing the tort claim will simplify and substantially reduce the costs of litigation (eliminating the need for economists or any experts), and may allow the parties to resolve this case in its entirety.

If you are not agreeable to stipulate, we plan to bring a motion requesting bifurcation, or in the alternative, we will request that the existing schedule be vacated so that the parties have additional time to conduct discovery pertaining to the antitrust claim.

Please let us know. Thank you.

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